THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.25796 of 2006

Dated: 13-12-2006

Between:

Sri B. Sathyanarayana Murthy.

..... PETITIONER

AND

State of Andhra Pradesh, rep. by the Secretary to Government, Revenue Department, Hyderabad and others.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE V.V.S. RAO

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ORDER:

The petitioner purchased plot No.50 in survey No.74/9 situated at East Marredpally Village, Secunderabad, admeasuring 243.4 sq. meters (equivalent to 291 sq. yards) under registered sale deed dated 24.09.1991 from M/s Seva Mandal Society, which is statedly owner of land in survey No.74/9. After purchase of the land, the petitioner approached Municipal Corporation of Hyderabad (MCH) and obtained sanction for construction of building vide permit No.55/59 of 2004 in file No.105/TP/MCH/SD/B6/2004 dated 07-05-2004. The petitioner alleges that when he commenced construction pursuant to such sanction by MCH, respondent No.3 along with subordinates of staff objected for such construction on an allegation that the land in said survey number is Government land and that in respect of said land proceedings in L.G.C.No.167 of 1997 before the Special Court constituted under the Andhra Pradesh Land Grabbing (Prohibition) Act, 1982 are pending. The petitioner also alleges that when there was continuous disturbance to the construction activity taken up by the petitioner's contractor. He alleges that he gave undertaking to MCH that in the event of the land being declared as Government land, he would remove all structures and handover the land to the Government without claiming any compensation. He asserts that only on such undertaking MCH granted municipal sanction and therefore, interference by respondent No.3 is illegal.

The learned senior counsel for the petitioner submits that even when the case, being L.G.C.No.167 of 1997, is pending before the Special Court, having regard to the undertaking given by the petitioner before the authorities of MCH, any interference by respondent No.3 is *ex facie* arbitrary and illegal. According to the learned senior counsel, the petitioner can be permitted to construct on the plot of the land which he purchased under registered sale deed and in the event of Government succeeding before the Special Court, the petitioner can be asked to remove the construction from the land. **Opposing** the writ petition the learned Assistant Government Pleader for Revenue (General-T) submits that in a number of similar cases this Court, while giving liberty to the Mandal Revenue Officer (MRO), Marredpally, to implead the persons who purchased the land in survey No.74 of Marredpally in the pending L.G.C.No.167 of 1997, has also given liberty to obtain orders against them. In this case according to the learned Government Pleader, the petitioner was arrayed as respondent No.1299 in L.G.C.No.167 of 1997

pending before the Special Court. He placed reliance on an unreported judgment of this Court in **Shuja Mohammed Sheriff v. MRO, Marredpally**[1].

The learned Government Pleader does not dispute that there is no injunction or prohibitory order against the petitioner. Therefore, MRO, who is the applicant in L.G.C.No.167 of 1997, can file an application before the Special Court for appropriate injunction/prohibitory order against the petitioner. Till then MRO shall not in any manner disturb the possession of the petitioner. It is brought to the notice of this Court that the learned Special Court passed an order of injunction against some of the owners or their vendors on 08-12-1998. In view of the same, there shall be *status quo* as on today with regard to possession as well as construction by the petitioner. However, having regard to the undertaking statedly submitted by the petitioner before the authorities of MCH, liberty is given to him to obtain appropriate orders in the matter of construction.

The writ petition, with the above observations and directions, is accordingly disposed of. No costs.

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(**V.V.S.RAO, J**)

13th December, 2006
Note: Issue CC by 18-12-2006.
B/o
ghn

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[1] W.P.No.19568 of 2005 Dated 06-09-2005